

**Minutes for the State of North Carolina  
Forensic Science Advisory Board Meeting  
(NCFSAB)**

Meeting – April 21, 2015  
North Carolina State Crime Laboratory  
Raleigh, NC

**Board members present:** North Carolina State Crime Laboratory Director John Byrd, Kermit Channell (Chair), Tracey Dawson Cruz, Demi Garvin, David Hinks, Mike Jiroutek, Amanda Julian, Tim Kupferschmid (via telephone), Peter Marone, Bethany Pridgen, Deborah Radisch, Ronald Singer

**Board members not present:** Adam Becnel, Michael Coble, Alka Lohmann, Christopher Palenik

**Others in attendance:** Suzi Barker, Mark Boodee, John Dilday, Ann Hamlin, Judge Joe John, Deena Koontz, Chuck McClelland, Karen Morrow, Elizabeth Patel, Joseph Reavis, Timothy Suggs, Amanda Thompson, Pete Ware, Jody West (NCSCCL); Stormie Forte (State Crime Lab Ombudsman); Sarah Rackley Olson (Office of Indigent Defense Services); John Bason, Forensic Science Advisory Board Counsel Matthew Boyatt, North Carolina State Crime Lab Counsel William Hart (NC DOJ)

The meeting was called to order by Chairman Kermit Channell at 9:05 AM. As the first order of business, new board member Demi Garvin was sworn in by Judge Joe John. Following the swearing-in, the board approved the **minutes** from the previous meeting (July 22, 2014) as written.

The next order of business was amending the board's **bylaws** (per Forensic Science Advisory Board Counsel Matthew Boyatt's notice dated December 29, 2014) to bring them into compliance with recent statutory changes which 1) reduced board membership by one member and 2) changed the meeting schedule from quarterly to biannual. Ronald Singer moved approval of the amended bylaws, seconded by Peter Malone. The board approved these changes unanimously.

Following that vote, Lab Director John Byrd began his **Director's Report**. He started by noting that the **retention committee** was finding small ways to make working at the lab more attractive including monthly visits by food trucks, physical fitness meetings, and "Lunch & learn" programs on a wide range of topics.

**Legislation** pending before the General Assembly that may impact operation of the lab was the next subject. Bills have been filed authorizing remote court testimony by lab staff, outsourcing of toxicology testing, expanding existing definitions to take in more designer drugs, and the admissibility of lab analysts' affidavits without testimony. Funding for salary increases for lab staff is also the subject of bills, including bills to fund the suggested 10% increase for scientists in the lab. Other bills would expand the collection of DNA evidence to include all violent felons or all arrestees, and require private labs to comply with CODIS. If a bill banning the use of background checks in hiring appears likely for passage, the lab may seek an exclusion.

Assistant Director for Operations Deena Koontz provided an update on the progress of the new **Western Regional Lab**, which will provide more than double the space that is available at the current leased facility. The expansion will add DNA analysis and blood toxicology analysis. She noted that in the past there has been local opposition to expansion at the site, which is home to the Justice Academy's

western campus. However Koontz stated that the lab recently held a public information session and found area residents supportive of the project. The information session also provided staff with the opportunity to explain the differences between law enforcement procedural television shows like CSI, and the reality of crime lab work. Groundbreaking for the new lab is tentatively scheduled for July. Construction should take about 18 months, weather permitting. There will be a long commissioning and permitting period, which could take up to 6 more months. The hope is that they will be operating by July of 2017. An adjoining area has been identified which would allow for future expansion of the facility.

Director Byrd stated that the project is being undertaken in a frugal manner, seeking the best return for the investment and avoiding extravagances that have drawn disapproval from state officials on other construction projects. In answer to a question about capacity, it was stated that the new lab could eventually house a staff of 50. There was also an update on renovation of the existing (leased) lab space, including adding windows throughout for better lighting. Lab staffers are spending some time working on those renovations themselves to give them a sense of ownership over the space.

Director Byrd expressed his appreciation to DOJ for identifying funding to put toxicology analysts in the western lab this summer, 2 years before the new lab opens. Western NC law enforcement agencies and District Attorneys are said to be very pleased with that development.

Following that presentation, Director Byrd began the **personnel update** by introducing William Hart, who has taken the position of NCSCCL Counsel previously held by Joy Strickland. It was also announced that Pete Ware has been named to replace Chuck McClelland as Assistant Director for Quality Control/Technical Operations and the two are currently working together as Ware is learning the job. Also, Jody West is now heading up Biology, Karen Morrow is heading up Digital and Latent, and Liz Patel is in charge at the Triad Lab.

Assistant Director Koontz reported on **vacancies**. She stated that 30 of the lab's 204 positions are currently open. Three of the 19 new Toxicology positions are currently vacant, and 3 of the 10 Forensic Biology positions have been filled.

Director Byrd noted that the General Assembly looks at all state government vacancies every year and takes away some positions that are vacant for more than a year. The lab currently has 4 scientist positions that have been vacant for a year but there is a person attached every vacancy and the lab can usually hold a position if they have someone designated for it. Review boards continue at a steady pace, looking at candidates and working on getting vacancies filled. The process takes a long time and the number of review boards they have had for Toxicology and Drug Chemistry applicants who drop out or are disqualified is "disheartening." They have begun interviewing applicants earlier in the process, to weed out unacceptable candidates earlier. They hire retired agents to do background checks but in some cases Lab analysts have participated when they need to get people in quickly. Most of the vacancies that need to be filled are Level One (entry level) positions. The Director reported that overall, with regard to vacancies, the lab is in the best shape ever.

Chairman Channel asked how many applications are received when a vacancy is posted. Answer: it depends on the position. They recently got 900 applications for office assistant positions. (Director Byrd noted that they were recently able to move the lab's office assistants up two salary grade levels, which provided a big boost to morale among that portion of the staff.)

Chairman Channel thanked Chuck McClelland for his service.

The Board recessed at 10:23 AM

The Board reconvened at 10:38 AM

Director Byrd's report continued after the break. He is working with the Board's Attorney Matthew Boyatt on a document that will summarize and clarify the **terms of board members**. Some members who came on the board last year should be serving 4 year terms instead of 2 year terms. Board members serve until they resign or their term expires, at which time the Attorney General may reappoint the member or make a new appointment.

The Director updated members of the board on the **case management guidelines**. Case management was recommended by the board and went into effect in 2013. Prior to that the lab had an open-door policy with no guidelines for submissions, and accepted every item submitted by law enforcement agencies in all cases. Case management guidelines now structure what is taken in, in a systematic way. Agencies submit the top ten most important items for testing in a case, and submit additional items as needed.

In order to get the lab's caseload to a manageable level, they have implemented some limitations for a one-year period that started in January. This will allow them to get better control over the cases that are coming in. Prior to implementation they reached out to some stakeholders in the criminal justice system and members of the board for feedback, and received approval for the plan from the Attorney General.

When the limits went into effect, all stakeholders received a letter explaining the progress the lab has made in reducing the inventory of items awaiting testing, and laying out the temporary limits on submissions. The majority are firearms cases, along with auto parts identification and misdemeanor "touch DNA" cases on property crimes. The last paragraph explains the crucial exception clause that allows law enforcement agencies to bypass the limitations when the District Attorney sends a letter confirming the need for the waiver. The Director said that he has already approved some exceptions.

Chairman Channel commented that submission of some types of items might decrease or cease after they have been excluded for a year. He stated that over-submission of touch DNA evidence on property crimes was a problem for labs nationwide.

The Director said the lab is continuing to push Lean Six Sigma, and using the tools it advocates. The renovations in the Biology section, which are about 85% complete, incorporate improvements that were highlighted by the Lean Six Sigma process. Latent and Digital sections focused on scheduling and coordinating. Production boards are also in use at the Triad Lab.

Forensic Scientist Manager Timothy Suggs reported on the **Toxicology** section. They held a 2-hour brainstorming session with all Toxicology staff members, in which they prioritized their ideas and solutions. As a result they now have an hour a day without interruption for reviews. They moved some things closer together, to cut transportation waste. And they converted to a "push" system instead of "pull" system. This is counter-intuitive for Lean Six Sigma, but they established goals to meet and are taking a middle-ground approach. In the future they anticipate scheduling dates for instrument use, which will be necessary when the new trainees come aboard.

Forensic Scientist Manager Ann Hamlin added that the Toxicology section had switched to “batch” and task-oriented analysis in September of 2014. As a result they are seeing an 83-84% increase in the number of records they are pushing out.

Director Byrd told the board that he had hoped to be able to show them completed renovations at the lab today, but the work has not been finished yet. The builder is facing fines for every day they are late.

Assistant Director Koontz spoke regarding renovations in the Biology section, which began in January along with work on the DNA Database section. They have converted compartmentalized spaces into open working spaces. There are 20 “office workspaces” there now.

Forensic Scientist Manager Jody West reported that in renovating Forensic Biology, an old inoperable walk-in freezer had to be removed. It had been used for storage. He showed photos of work, from demolition to renovation.

Director Byrd noted that workspaces went from 8 to 23, which means there is now room for the new 10 people who are coming. The idea for this redesign arose from Lean Six Sigma.

West noted that they are re-using a lot of cabinetry and counter tops. They are excited about new space, although there will be some growing pains.

Forensic Scientist Manager Amanda Thompson reported on renovations in the DNA Database section, showing photos. They will have room for up to 14 employees. They have added windows which bring in light and allow tours to see the scientists working without violating their workspace.

Assistant Director Koontz pointed out that there is another renovation going on simultaneously. A state government energy audit determined that the lab was not operating as efficiently as it should, so the entire building’s HVAC system is being overhauled. It is being done a portion at a time, at the same time as other renovations, to minimize disruption. The renovations and the new system changed the airflow within the building, and testing will be done to fine tune it as needed. To oversimplify it, Director Byrd said, the building is being moved from an analogue HVAC system to a digital one. The work was due to be finished April 12<sup>th</sup> and is now almost completed.

Overall the Director said they are repurposing as much material and equipment as possible in all of the renovations, to save money. He thought progress on caseloads would drop during renovation but DNA held steady, and Biology actually increased output.

Hamlin reported that **toxicology outsourcing** commenced in February. They started with blood drug cases because they are the largest inventory of cases and because they take the longest to work. Before beginning they had the outside company do 5 samples the lab could review. So far they have sent 2 batches totaling 188 cases from 5 counties. They are calling District Attorneys with the largest inventories of blood drug cases, seeking their buy-in to agree to outsourcing.

Director Byrd noted that the General Assembly originally budgeted \$750,000 for this, then took away \$500,000 of it. The remaining \$250,000 is recurring money, meaning it should be there in every future budget. The first \$250,000 was used for science. The next 250,000 will cover testimony costs. The Director said the lab will need more money to dig out of the inventory of toxicology cases. He also

stated that most labs across the country have needed outsourcing or other outside help to reduce their inventories.

Hamlin reported a huge accomplishment for the Toxicology section. They had previously employed a rush system, but they couldn't keep up with demand. Now they've cleaned out the line of rush cases, so no rushes being declined now.

Question from the board: After a case/sample is outsourced, is all communication directly between the vendor and customer (agency), or is lab still in the middle? Answer: Communication is directly between the vendor and the customer.

Question from the board: Why is the lab paying for testimony (in outsourcing cases) rather than the District Attorneys? Answer: There was discussion of this but the DAs won the argument. An effort is underway to get the Administrative Office of the Courts (AOC) to handle it.

Hamlin reported that the lab now has 14 Toxicology trainees. They will be introduced to Task Oriented Analysis, then they'll take it to their regional labs. (The technical part as well as the Lean Six Sigma part.)

In summary, Director Byrd stated that the lab has been very busy on all fronts. The primary focus is on caseloads and they are making great progress. He noted that a 26% change in production rates is unbelievable, and it's probably higher than that because they haven't run the most recent numbers yet. He is very pleased with the direction.

Progress is also being made RE: retention. Some people still leave when they get offers that are as much as two times their current salary. However, recently an employee decided to stay. He had recently finished training and had been on board for about 15 months. He stayed for various reasons including the positive changes happening at the lab and because he saw it as a quality organization.

In closing his report, Director Byrd noted that he continues to try to think outside the box regarding how to improve the lab, and contacts his staff at all hours with "What else can we do?" messages. He credited "the people along the wall" (staff attending the meeting, and their employees) for the progress the lab has made.

He stated that the lab still has a ways to go, and that he is accepting the risks for some of the decisions he is making. He said the lab is going to be a better organization with the highest quality work, and timely analysis of casework going out the door so that all criminal justice stakeholders are getting the product they need in a timely manner.

After the Director's Report ended Chairman Channell discussed the proposed **letter of support** to the General Assembly, noting that the GA created the board and stating his belief that the board should have a compelling voice directed back to lawmakers. The Chairman reminded the board that they had sent such a letter to the General Assembly previously, and noted that the previous letter and the proposed draft included many of same components.

The letter captures the lab's accomplishments and makes the case for the 10% scientists' salary increase, to get salary levels up and end vicious cycle of training people only to have them leave for higher paying positions. It also recommends that the General Assembly restore the toxicology outsourcing funds that were cut.

The chairman stated his desire to get the letter out as quickly as possible, noting also that the staff needs to know that the board is doing everything in its power to support them including drafting the letter which advocates on behalf of the lab.

After fine-tuning the letter the board voted to approve it, with the changes that were agreed to in the meeting. The chairman expressed hope that the General Assembly will pay heed to the recommendations. With regard to funding sources, Peter Marone noted that in his state he had suggested a small alcohol tax to help pay for alcohol-related tests.

Director Byrd noted the desire to have the board meet at the western lab at some point in the future. Board members would be able to stay overnight in Justice Academy facilities, meet with staff at the western lab, and see progress on the new building. Board members would fly into the Asheville airport instead of RDU.

Director Byrd also noted that dual accreditation of the lab is being studied. The question is whether to continue it in 2016 or go with single accreditation. (And if choosing single accreditation, which one.) In response to a question from the board, it was noted that the NCSCL is the only publically funded lab with dual accreditation. The Attorney General will receive the results of the study and make the final decision.

Chairman Channell explained that board members would be meeting individually and informally in small groups with lab staff after the lunch break.

Before adjournment, Board Counsel Matthew Boyatt reminded members that their meetings with staff after lunch did not constitute a reconvening of the board under the state's Open Meetings Act, and that board members were not to conduct any business (discuss, deliberate, or vote) during these informal gatherings.

The board's next meeting was scheduled for September 22, 2015 with the 21<sup>st</sup> serving as a travel day.

The meeting adjourned at 12:51PM.